

29th September, 1959

COCOM Document 3690

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COORDINATING COMMITTEEMEMORANDUM FROM THE UNITED STATES DELEGATIONONSWISS TRANSIT CONTROLS

1. Problems arising from the absence of Transit controls in Switzerland have been reviewed in the Committee and in the Export Controls Subcommittee in connection with the establishment of the TAC scheme, and more recently, in particular reference to illegal diversions of strategic goods in which Swiss transit facilities have been utilized. It is noted that one of the questions referred to COCOM by the Subcommittee at its May meeting was the matter of possible examination of Swiss Controls.
2. Following the August, 1958, list review the U.S. discussed the new International Lists with Swiss officials and at the same time discussed again the matter of transit controls with the Swiss. It was proposed by the U.S. that the Swiss include certain IL I items under their military controls, since a framework existed under such controls within which the Swiss could stop a transit shipment of certain commodities. These commodities are enumerated in the law applicable to munitions and war material items, containing specific provisions applicable to transit shipments.
3. The law in question is the Federal Council's decree of March 28, 1949 concerning manufacture and trade in war material. It provides that the export and transit of "weapons, munitions and parts therefor, as well as explosives and detonating agents and compounds are prohibited. Exceptions may be granted only if they neither violate international agreements nor are harmful to national interests". The Federal Military Department must obtain the agreement of the Federal Political Department before such exceptions can be approved. The commodities covered by this law are listed under five general categories, the fifth covering materials and equipment for nuclear weapons.
4. When the U.S. first discussed this matter with the Swiss in August, 1958, several specific items from the new IL I list were pointed out as examples which might qualify for Swiss "military" control.
5. The Swiss reply was given to U.S. representatives on July 21, when an official of the Division of Commerce reported that his Government had reached the conclusion that there are certain commodities on IL I which are war material under the decree of the Federal Council of March 28, 1949, giving the U.S. representatives a list of these commodities. He stated that there were two categories of these items, namely those (in Category A) which are considered as war material regardless of their ultimate end-use and those (in Category B) which are considered as war material whenever the end-use is military. Some items on the list (which he did not specify) might not be permitted to transit Switzerland at all, and each case would be considered on an ad hoc basis. In any event, items on Category A of the list would require special authorization when transitting Switzerland, and the same would apply to items in Category B whenever the end-use of such items is military. The Swiss official stated that this list comprises commodities which the Swiss have already considered to be subject to regular Swiss export control as well as military controls.

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6. This is the first time that a detailed breakdown of II I items which are also subject to Swiss military controls has been made available to the U.S. The Swiss have emphasized that they do not publish this information and that it should not be widely known. The Swiss distribute the data to their own export control and customs authorities only. They have pointed out that it is the responsibility of the Swiss customs authorities to determine whether or not a shipment in category B is for military end-use and that it is up to the forwarding companies to make certain that they are not handling unauthorized shipments. They have requested that any question pertaining to these controls be referred to the Swiss Government or its representative.

7. The Swiss, however, agreed that the U.S. may present this list and related data to COCOM for the information of COCOM only. They have requested that the information not be given distribution among the control authorities or member countries for use in the implementation of their controls or for other direct use. The Swiss have indicated that they would have no objection to receiving information, in instances where a useful purpose would be served thereby, regarding transit shipments of items on the list (as well as other war material commodities) of which they might not be aware and which might be unauthorized from their viewpoint.

8. A copy of the list is attached to this memorandum (Attachment 1). In addition there is also attached for the background information of the member countries a copy of the over-all Military Control List issued under the 1949 decree (Attachment 2).

ATTACHMENTS:

1. International List I and Swiss Military Control List
2. Commodity Categories under Swiss Law Concerning Manufacture and Trade in War Materials

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